

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Bianchi et al.

Serial No. 10/699,175

Filed October 31, 2003

OPEN INTERVERTEBRAL SPACER

)
)
) Before the Examiner
) Not Yet Known
)
) Group Art Unit
) 3738
)
)

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the duty of disclosure in accordance with 37 CFR §1.56, Applicant wishes to bring to the attention of the Examiner the patents, publications, and/or other information listed on the attached PTO Form 1449 (modified).

The filing of this Information Disclosure Statement shall not be construed as an admission that the information cited is, or is considered to be, material to patentability as defined in §1.56(b).

This Statement is being submitted after the filing of the application but before receipt of a first action on the merits. It is believed that no fee is required for consideration of the submitted items. Should any fee be required, however, please charge such fee to Deposit Account No. 23-3030, but not to include any payment of issue fees.

Respectfully submitted,

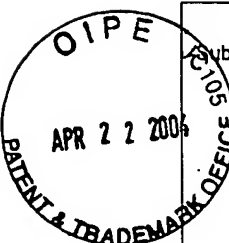
I hereby certify that this correspondence is being deposited with the United States Postal Service as **first class mail** in an envelope addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

April 19 2004
(Date of Deposit)
James B. Myers, Jr.
Name of Registered Representative
James B. Myers Jr.
Signature
April 19 2004
Date of Signature

By:

James B. Myers Jr.
James B. Myers Jr., Reg. No. 42,021
Woodard, Emhardt, Moriarty, McNett & Henry LLP
3700 Bank One Center Tower
111 Monument Circle
Indianapolis, IN 46204-5137
(317) 634-3456

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number



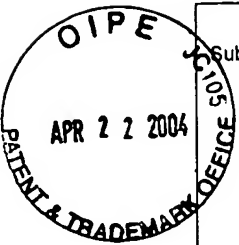
Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)				<i>Complete if Known</i>	
				Application Number	10/699,175
				Filing Date	October 31, 2003
				First Named Inventor	Bianchi
				Group Art Unit	3738
				Examiner Name	
Sheet	1	of	4	Attorney Docket No.	4002-3441

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (If known)			
		3,486,505	05-1967	Morrison	
		3,848,601	11-1974	Ma	
		4,309,488	01-1982	Heide et al.	
		4,545,374	10-1985	Jacobson	
		4,626,392	12-1986	Kondo et al.	
		4,636,217	01-1987	Ogilvie et al.	
		4,654,314	03-1987	Takagi et al.	
		4,687,675	08-1987	Nakano et al.	
		4,714,469	12-1987	Kenna	
		4,722,870	02-1988	White	
		4,736,738	04-1988	Lipovsek et al.	
		4,743,256	05-1988	Brantigan	
		4,820,305	04-1989	Harms et al.	
		4,834,757	05-1989	Brantigan	
		4,877,020	10-1989	Vich	
		4,878,915	11-1989	Brantigan	
		4,917,703	04-1990	Albrektsson	
		4,950,296	08-1990	McIntyre	
		4,961,740	10-1990	Ray et al.	
		4,976,738	12-1990	Frey et al.	
		5,002,583	03-1991	Pitaru et al.	
		5,015,247	05-1991	Michelson	
		5,026,373	06-1991	Ray et al.	
		5,055,104	10-1991	Ray	
		5,062,845	11-1991	Kuslich	
		5,190,548	03-1993	Davis	
		5,250,061	10-1993	Michelson	
		5,258,029	11-1993	Chu et al.	
		5,282,861	02-1994	Kaplan	
		5,306,302	04-1994	Bauer et al.	
Examiner Signature				Date Considered	

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number



Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)				Complete if Known	
				Application Number	10/699,175
				Filing Date	October 31, 2003
				First Named Inventor	Bianchi
				Group Art Unit	3738
				Examiner Name	
Sheet	2	of	4	Attorney Docket No.	4002-3441

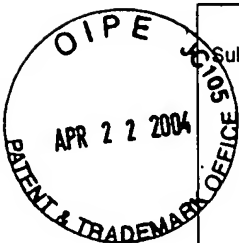
U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (If known)			
		5,306,303	04-1994	Lynch	
		5,306,309	04-1994	Wagner et al.	
		5,329,846	07-1994	Bonutti	
		5,330,826	07-1994	Taylor et al.	
		5,346,492	09-1994	Morgan	
		5,423,825	06-1995	Levine	
		5,423,855	06-1995	Marienne	
		5,425,772	06-1995	Brantigan	
		5,443,514	08-1995	Steffee	
		5,445,639	08-1995	Kuslich et al.	
		5,458,638	10-1995	Kuslich et al.	
		5,458,642	10-1995	Beer et al.	
		5,484,437	01-1996	Michelson	
		5,489,307	02-1996	Kuslich et al.	
		5,489,308	02-1996	Kuslich et al.	
		5,499,984	03-1996	Steiner	
		5,514,180	05-1996	Heggeness et al.	
		5,591,235	01-1997	Kuslich	
		5,593,409	01-1997	Michelson	
		5,609,636	03-1997	Kohrs et al.	
		5,645,598	07-1997	Brosnahan, III	
		5,669,909	09-1997	Zdeblick et al.	
		5,709,683	01-1998	Bagby	
		5,716,355	02-1998	Jackson et al.	
		5,720,749	02-1998	Rupp	
		5,728,159	03-1998	Stroeve et al.	
		5,741,253	04-1998	Michelson	
		5,766,253	06-1998	Brosnahan, III	
		5,782,830	07-1998	Farris	

Examiner Signature		Date Considered	
--------------------	--	-----------------	--

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number



Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (use as many sheets as necessary)				Complete if Known	
				Application Number	10/699,175
				Filing Date	October 31, 2003
				First Named Inventor	Bianchi
				Group Art Unit	3738
Examiner Name					
Sheet	3	of	4	Attorney Docket No.	4002-3441

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	Document Number Number-Kind Code ² (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
		5,810,819	09-1998	Errico et al.	
		5,814,084	09-1998	Grivas et al.	
		5,857,995	01-1999	Thomas et al.	
		5,904,719	05-1999	Errico et al.	
		5,972,368	10-1999	McKay	
		5,989,289	11-1999	Coates	
		6,017,343	01-2000	Rogozinski	
		6,033,438	03-2000	Bianchi et al.	
		6,033,830	03-2000	Bianchi	
		6,096,081	08-2000	Grivas	
		6,111,164	08-2000	Rainey et al.	
		6,210,506	09-2000	Kohrs et al.	
		6,258,125	07-2001	Paul et al.	
		6,375,681	04-2002	Truscott	
		6,391,058	05-2002	Kuslich et al.	
		6,409,765	06-2002	Bianchi et al.	
		6,500,206	12-2002	Bryan	

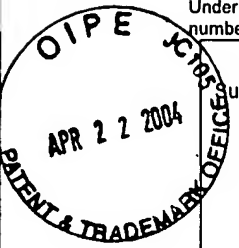
FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ² -Number ³ -Kind Code ⁴ (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁵
		EP 0 077 159 A ✓	04-1983			
		GB 2 207 607 A ✓	02-1989			
		EP 0 307 241 ✓	03-1989			
	*	DE 37 41 493 A1	06-1989			
		EP 0 392 076 ✓	10-1990			
		WO 95/08306 ✓	03-1995			
		WO 95/15133 ✓	06-1995			
	*	WO 96/22747	08-1996			
		WO 96/40013 ✓	12-1996			
		WO 97/13378 ✓	04-1997			

Examiner Signature		Date Considered	
--------------------	--	-----------------	--

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number



Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

				Complete if Known	
				Application Number	10/699,175
				Filing Date	October 31, 2003
				First Named Inventor	Bianchi
				Group Art Unit	3738
				Examiner Name	
Sheet	4	of	4	Attorney Docket No.	4002-3441

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ²
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				
		WO 97/15248 ✓	05-1997			
		WO 97/25945 ✓	07-1997			
		WO 98/17209 ✓	04-1998			
		WO 98/17330 ✓	04-1998			
		WO 01/70144 ✓	09-2001			

OTHER PRIOR ART - NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s) publisher city and/or country where published	T ²
		AcroMed Spine Tools, <i>PLIG Instruments</i> (undated)	
		AcroMed, <i>Brantigan I/F Cage</i> , (undated)	
		Albee, Fred H. MD, <i>Bone Graft Surgery in Disease, Injury and Deformity</i> , published by D. Appleton-Century Company (1940)	
		AcroMed, <i>Brantigan I/F Cage™ for PLIF</i> (1991)	
		Sofamor Danek, <i>Laparoscopic Bone Dowel Surgical Technique</i> , Memphis, Tennessee (1995)	
		<i>Musculoskeletal Transplant Foundation Brochure</i> , (Apr. 1996)	
		Sofamor Danek, <i>Surgical Technique Using Bone Dowel Instrumentation for Posterior Approach</i> , LIT.PLIF.ST96 (1996)	
		Sofamor Danek, <i>Surgical Tips Posterior Approach</i> (1998)	
		University of Florida Tissue Bank, Inc. <i>Allograft Catalog</i> (1998)	
		Vaughan, John J. MD, <i>New and Innovative Fusion Techniques</i> , The Kentucky Spines Inst. (Dec. 1998)	

Examiner Signature		Date Considered	
--------------------	--	-----------------	--

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.